

Amendments to Senate Bill No. 404
1st Reading Copy

Requested by Senator Greg Lind

For the Senate Judiciary Committee

Prepared by Leanne Heisel
February 22, 2007 (7:40pm)

1. Title, lines 4 and 5.

Strike: "EMERGENCY" on line 4 through "FIREWARDENS;" on line 5

Insert: "FIREFIGHTERS;"

2. Title, line 5.

Strike: "SECTION 27-1-714,"

Insert: "SECTIONS 45-5-104, 45-5-207, 45-5-208, 45-6-101, 45-6-102, AND 45-6-103,"

3. Page 1, line 9 through page 2, line 3.

Strike: section 1 through section 3 in their entirety

Insert: "NEW SECTION. Section 1. Liability of firefighters.

(1) A firewarden, firefighter, or officer or employee of a state or governmental fire agency is not liable for any civil damages for acts or omissions while fighting fires other than damages occasioned by gross negligence or by willful or wanton acts or omissions.

(2) For the purposes of this section, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33."

Insert: "NEW SECTION. Section 2. Legal representation for firefighters. The department shall provide legal representation to its employees who fight fires for any criminal prosecution arising from an act or omission on a fire."

Insert: "Section 3. Section 45-5-104, MCA, is amended to read:

"45-5-104. Negligent homicide. (1) A person commits the offense of negligent homicide if the person negligently causes the death of another human being.

(2) Negligent homicide is not an included offense of deliberate homicide as defined in 45-5-102(1)(b).

(3) A person convicted of negligent homicide shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both.

(4) This section does not apply to the acts or omissions of a firewarden, firefighter, or officer or employee of a state fire agency or governmental fire agency organized under Title 7, chapter 33, that are committed while fighting fires."

{ Internal References to 45-5-104:

x41-5-206	x50-20-108	x50-20-112	x61-5-405
x61-8-731	x61-8-731	x61-8-731	x61-8-731}

Insert: "Section 4. Section 45-5-207, MCA, is amended to read:

"45-5-207. Criminal endangerment -- penalty. (1) A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of criminal endangerment. This conduct includes but is not limited to knowingly placing in a tree, log, or any other wood any steel, iron, ceramic, or other substance for the purpose of damaging a saw or other wood harvesting, processing, or manufacturing equipment.

(2) A person convicted of the offense of criminal endangerment shall be fined an amount not to exceed \$50,000 or imprisoned in the state prison for a term not to exceed 10 years, or both.

(3) This section does not apply to the acts or omissions of a firewarden, firefighter, or officer or employee of a state fire agency or governmental fire agency organized under Title 7, chapter 33, that are committed while fighting fires."

{ Internal References to 45-5-207:

x40-15-102}"

Insert: "Section 5. Section 45-5-208, MCA, is amended to read:

"45-5-208. Negligent endangerment -- penalty. (1) A person who negligently engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of negligent endangerment.

(2) A person convicted of the offense of negligent endangerment shall be fined an amount not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 1 year, or both.

(3) This section does not apply to the acts or omissions of a firewarden, firefighter, or officer or employee of a state fire agency or governmental fire agency organized under Title 7, chapter 33, that are committed while fighting fires."

{ Internal References to 45-5-208:

x40-15-102 x53-6-155}"

Insert: "Section 6. Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of

restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$1,000, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.

(5) This section does not apply to the acts or omissions of a firewarden, firefighter, or officer or employee of a state fire agency or governmental fire agency organized under Title 7, chapter 33, that are committed while fighting fires."

{Internal References to 45-6-101:

x13-35-206

x45-8-405

x85-7-1924

x87-1-504

x87-1-505}"

Insert: "Section 7. Section 45-6-102, MCA, is amended to read:

"45-6-102. Negligent arson. (1) A person commits the offense of negligent arson if he the person purposely or knowingly starts a fire or causes an explosion, whether on his the person's own property or property of another, and thereby negligently:

(a) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion; or

(b) places property of another in danger of damage or destruction.

(2) A person convicted of the offense of negligent arson shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender places another person in danger of death or bodily injury, he the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

(3) This section does not apply to the acts or omissions of a firewarden, firefighter, or officer or employee of a state fire agency or governmental fire agency organized under Title 7, chapter 33, that are committed while fighting fires."

{Internal References to 45-6-102: None.}"

Insert: "Section 8. Section 45-6-103, MCA, is amended to read:

"45-6-103. Arson. (1) A person commits the offense of arson when, by means of fire or explosives, the person knowingly or purposely:

(a) damages or destroys a structure, vehicle, personal property, ~~to~~ other than a vehicle, that exceeds \$1,000 in value, crop, pasture, forest, or other real property that is property of another without consent;

(b) damages or destroys a structure, vehicle, crop, pasture, forest, or other property that the person owns or has a possessory interest in, with the purpose of obtaining a pecuniary or other gain through fraud or deception; or

(c) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion.

(2) A person convicted of the offense of arson shall be imprisoned in the state prison for a term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both.

(3) This section does not apply to the acts or omissions of a firewarden, firefighter, or officer or employee of a state fire agency or governmental fire agency organized under Title 7, chapter 33, that are committed while fighting fires."

{ Internal References to 45-6-103:

x40-15-102 x41-5-206 x45-8-405 x46-23-502} "

Insert: "NEW SECTION. Section 9. {standard} Codification instruction. [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 76, chapter 13, part 1, and the provisions of Title 76, chapter 13, part 1, apply to [section 2]."

Renumber: subsequent section

4. Page 2, line 5.

Strike: "[sections 1 and 2] limit"

Insert: "[section 1] limits"

- END -